THE HONOURABLE SRI JUSTICE GOPALAKRISHNA TAMADA

W.P. No.32950 of 1997

ORDER:

The present writ petition has been filed questioning the order dated 01-10-1997 passed by the respondent-Mandal Revenue Officer under Section 6 of the Andhra Pradesh Land Encroachment Act, 1905 (for short 'the Act').

It is the case of the petitioner that he belongs to a poor family having Ac.1.00 guntas and Ac.1.00 guntas of wet and dry lands respectively in Survey Nos.222 and 229 of Vootkur village.
With the permission of the authorities, he cultivated the land to an extent of Ac.1.22 guntas in Survey Nos.234/2 and 234/3, which is in dispute in the instant writ petition, since 40 years. Further he also stated in the affidavit filed in support of the petition that his name also entered in the revenue records as possessor since 1966 to till today. In view of the same, he perfected the title,
in respect of land in dispute, in his favour. Further it is also stated that he acquired some more lands in the year 1970 to an extent of Acs.5.00 gutnas of dry land in Survey No.222 and Acs.3.00 guntas in Survey No.333. As the things stood thus, the Village Administrative Officer issued notice under Section 7 of the Act to offer his explanation and he submitted his explanation. Having received the said explanation, the respondent-Mandal Revenue Officer, passed impugned order dated 01-10-1997 under Section 6 of the Act directing the petitioner to vacate the land in dispute.
Questioning the notice dated 01-10-1997 passed by the respondent, the petitioner has come up with the instant writ petition, seeking writ of

Mandamus declaring the said impugned order as illegal and arbitrary.

Denying the allegations made in the affidavit, detailed counter has been filed by the respondent stating that the petitioner is having more lands excluding the land in dispute and he illegally encroached the land in dispute to an extent of Ac.1.22 guntas situated in Vootkur village of Kamepalli Mandal, Khammam District. After conducting necessary enquiry under the Act,
the impugned notice dated 01-10-1997, has been passed. Possession of the land, to an extent of Ac.1.22 guntas in Survey Nos.234/2 and 234/3 under cover of panchanama dated
25-11-1997, has been taken over while evicting the petitioner from the land in dispute. Therefore, the notice dated 01-10-1997 is passed having jurisdiction and the petition is liable to be dismissed.

Heard the learned counsel on either side.

The main grievance of the petitioner is that he was not provided with sufficient opportunity to submit his explanation to the impugned notice.

As could be seen from the record it is evident that the petitioner was serviced with the notice under Section 7 of the Act and he submitted his explanation for the same. Having received the said explanation, the respondent issued notice under Section 6 of the Act directing the petitioner to vacate the schedule land property, or else, he will be dispossessed from the same, which in my considered view, the proceedings initiated by the respondent-Mandal Revenue Officer are perfectly justified. Accordingly,
I see no merits in the writ petition and same is dismissed.

However, as the petitioner is served with the notice which is impugned, he is at liberty to submit his explanation before the authority concerned, within a period of four weeks from the date of receipt of a copy of this order and on such submission of explanation, the respondent is directed to pass appropriate orders, in accordance with law. No order as to costs.

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JUSTICE GOPALAKRISHNA TAMADA

Date: 12-02-2007
LSK